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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 10/738,916 | 12/16/2003 | Clifford W. Turnbull | 501326.01 | 8363 |
| 7590 11/27/2006 | | EXAMINER | | |
| Steven H. Arterberry, Esq. DORSEY & WHITNEY LLP | | | GANEY, STEVEN J | |
| Suite 3400 | HITNEY LLP | | ART UNIT | PAPER NUMBER |
| 1420 Fifth Avenue | | | 3752 | |
| Seattle, WA 9 | 8101 | • | DATE MAILED: 11/27/2006 | 5 . |

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

| Application No. | Applicant(s) | |
|-----------------|-----------------------|--|
| 10/738,916 | TURNBULL, CLIFFORD W. | |
| Examiner | Art Unit | |
| Steven J. Ganey | 3752 | |

| 1. ☑ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must limely file one of the following replies: (1) an amendment, affidavil, or diverdence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal se) in compliance with 37 CFR 1.114. The reply must be filed within one periods: a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one periods: a The period for reply expires 3 months from the mailing date of the final rejection. The period for reply expires 3 months from the mailing date of the final rejection. Examiner Note: if box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MEPE 7606 37(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office acidion; or (2) as set forth in the final rejection. Average set for this period by the Office later than three months after the mailing date of the final rejection, even if threely flied may reduce any earned patient term adjustment. See 37 CFR 1.170(a). MOTICE OF APPEAL, I The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (e), to avoid dismissal of the appeal, Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS: The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will got be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); The proposed amendment (see NOTE below); | |
|--|--|
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| this application, applicant must timely file one of the following replies; (f) an amendment, affidavit, or other evidence, which places the application in compliance with 37 CFR 4.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) \(The period for reply expires 2 months from the mailing date of the final rejection.\) b) \(\text{ The period for reply expires 2 months from the mailing date of the final rejection.\) c) \(\text{ The period for reply expires 2 months from the mailing date of the final rejection.\) c) \(\text{ The period for reply expires 2 months from the mailing date of the final rejection.\) Examiner Note: If box 11 scheded, check either box (a) or (b). ONLY CHECK BXOK (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 708.07(f). Extensions of time may be obtained under 37 CFR 1.136(s). The date on which the petition under 37 CFR 1.136(s) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee may reduce any exmed patent term adjustment. See 37 CFR 1.704(b). MONTEC DC APPEEAL 2. The Notice of Appeal was filed on | THE REPLY FILED 31 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. |
| no event, however, with the statutory period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, no revent, however, with the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRNAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filled it the date for pruposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled. may reduce any semed patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL. □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filled within two months of the date of filing the Notice of Appeal has been filled, any reply must be filled within the time period set forth in 37 CFR 41.37(a). AMENDMENTS □ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise he issue of new matter (see NOTE below); □ They raise he issue to five which we have the proposed amendment(s) in the fill of the proposed amendment (see NoTE below); □ They are not deemed to place the application in better form for appeal by materially rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). □ The amendments are not in compliance with 37 CFR 1.121, See attached Notice of Non-Compliant Amendment (PTOL-324). □ The | places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following |
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| TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a) and the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.70(b). NOTICE OF APPEAL. I The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (a), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). No any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) they raise new issues that would require further consideration and/or search (see NOTE below); (b) they raise new issues that would require further consideration and/or search (see NOTE below); (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) they resent additional claims without canceling a corresponding number of finally rejected claims. NOTE: | no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. |
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| appeal; and/or (d) | |
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| 5. | <u> </u> |
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| 13. Other: Steven J. Ganey Primary Examiner | |
| Steven J. Ganey Primary Examiner | 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). |
| Primary Examiner | 13. Other: |
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| Primary Examiner Art Unit: 3752 / 18/06 | |
| 17/18/06 | Primary Examiner Art Unit: 3752 / a / / |
| | 17/18/09 |

U.S. Patent and Trademark Office PTOL-303 (Rev. 08-06) Continuation of 5. Applicant's reply has overcome the following rejection(s): The rejections of Buschmann and Weinstein in regard to claims 50 and 51 and the rejection of Trusty et al in regard to claims 43, 44, 50 and 51.

Continuation of 11. does NOT place the application in condition for allowance because: In regard to applicant's arguments, note that the type of electric signal DC or AC is not claimed, the placement of the electrodes is only claimed to be "spaced apart", which the electrodes 2/3 of Buschmann are spaced apart, the size of the electrodes is not claimed, and the location of the electrodes is not claimed, therefore, the arguments concerning the unclaimed limitations is considered moot. As to the "sensor element configured to detect a liquid volume solely by sensing a resistance property of the liquid", note that the claim only requires the sensor element to be "configured to" (i.e. capable of performing), also, note that a capacitive sensor functions by detecting the electric field between the two probes, and the liquid in the supply vessel acts as a dielectric liquid. The capacitive sensor senses the electrical conductivity of the liquid, which changes the capacitance of the sensor, the conductivity of the liquid is the inverse of the electrical resistance of the liquid. Different liquids have different dielectric values. Depending on the particular liquid the capacitive sensor senses the capacitance between the probes. Therefore, by measuring the increase or decrease in electrical conductivity(i.e. electrical resistance), of a dielectric liquid the measurement of the increase or decrease in the capacitance(resistance) can also be determined. So as the level of the liquid varies, the amount of dielectric material between the probes varies, so the capacitance varies(i.e. resistance varies), which is an indication of the liquid volume in the vessel.